COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
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VIA UPS

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: Policies and Rules Implementing the Telephone Disclosure and Dispute Resolution Act
CC Docket No. 93-22

Dear Secretary Caton:

Enclosed please find an original and nine (9) copies of the Comments of the Pennsylvania Public Utility Commission, the Pennsylvania Telephone Association and the Pennsylvania Office of Consumer Advocate in the above-captioned matter.

A copy has been provided for each of the Commissioners.

Very truly yours,

Maureen A. Scott

Maureen A. Scott
Assistant Counsel

MAS/ms

Encl.

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of

Policies and Rules Implementing the Telephone Disclosure and and Dispute Resolution Act	:	CC Docket No. 93-22

COMMENTS OF THE PENNSYLVANIA PUBLIC UTILITY COMMISSION, THE PENNSYLVANIA TELEPHONE ASSOCIATION, AND THE PENNSYLVANIA OFFICE OF CONSUMER ADVOCATE

The Pennsylvania Public Utility Commission (PaPUC), the Pennsylvania Telephone Association (PTA), and the Pennsylvania Office of Consumer Advocate (OCA) (jointly referred to as the "Pennsylvania Commenters") submit the following joint comments to the Further Notice of Proposed Rulemaking (FNOPR), adopted August 2, 1994, and the proposed rules contained in Appendix C to the FNOPR order. In the FNOPR, the Commission seeks comment on "proposals intended to protect telephone subscribers from abusive practices associated with the provision of information services through 800 numbers and pursuant to a presubscription or comparable agreement."

A. Background

The Pennsylvania Commenters applaud the Commission for reopening this docket to initiate the development of further and more effective protections for consumers who use or are billed for pay-per-call or other similar information services. Despite persistent attempts by the Commission, the protections provided for by the current pay-per-call rules at 64 C.F.R. §§64.1501, et seq., have been inadequate in providing satisfactory consumer protections. The inadequacy of the current rules has been caused by both: 1) the innovativeness of information service providers (IPs) in developing reasonable misinterpretations of the rules which have created gaping loopholes, and 2) the practical problems related to application of billing restrictions placed on local exchange carriers, which while appearing to provide potentially effective consumer protections in theory, cannot be complied with by LECs.

The experience of the Pennsylvania Commenters is that in order to take advantage of the inadequacies in the present rules, the IP industry has moved quickly and directly towards the use of ordinary geographic area code (OGAC) numbers as terminating numbers for billing purposes for information service calls regardless of what kind of number a given call was originally placed over. From our perspective, the development of this IP practice served two purposes: 1) to, in the view of some IPs, avoid the separation of information services on the LEC bill in order to maintain suspension of toll or local service as a collection mechanism, and 2) to avoid presubscription or comparable arrangement (POCA) requirements or the enforcement of those requirements under the view developed by IPs that information calls placed over OGAC numbers (or appearing to be placed by identifying an OGAC termination number for billing purposes) were not subject to a POCA requirement.

Meanwhile, the Pennsylvania Commenters continue to be bombarded by consumer complaints mostly relating to the provision of interstate information services calls. The most troubling aspect of these complaints is that all too often the complaining parties are the parents or guardians of minors and/or individuals with mental or physical disabilities. Many other cases involve low-income consumers who simply cannot afford to pay information service charges and risk the suspension or termination of essential telephone services as a result.

The Pennsylvania Commenters are frequent litigants before the Commission and almost routinely file papers with the Commission which frequently advocate opposing positions. However, as to this important subject matter, the Pennsylvania Commenters come before the Commission with a common ground and a joint position regarding steps we believe must be taken by the Commission to protect consumers in our Commonwealth.[1]

In considering the comments filed pursuant to the FNOPR, the Pennsylvania Commenters urge the Commission not to be distracted by the positions of the IP industry which are clearly submerged in vested financial interests. Instead, the Commission must turn its full attention to the plight of consumers, who unwittingly fall prey to unscrupulous business practices.

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[1] Some of the Pennsylvania Commenters, or members thereto, are also filing separate comments or joining in the comments of their respective national affiliate organization.

In order to adequately protect consumers, the Commission must revisit implementation of the Telephone Disclosure and Dispute Resolution Act (TDDRA), 47 U.S.C. §228, and within the confines of this enabling statute develop a system which assures the achievement of four objectives: 1) assure that only telephone subscribers are permitted to purchase information services which are to be billed on the telephone bill, 2) assure consumers adequate information to make educated choices regarding the purchase of information services, 3) assure that telephone subscribers are not subject to suspension or termination of essential telephone services because of nonpayment of charges associated with information services and 4) assure that IPs are restricted to traditional collection activities which require IPs to bear the full risk of nonpayment associated with providing services on credit to consumers without evaluating credit history.

The specific recommendations of the Pennsylvania Commenters in response to the FNOPR request for proposals intended to protect telephone subscribers from abusive practices associated with the provision of information services are fully set forth below.

B. Recommendations and Proposals

1. Presubscription or comparable arrangements should be defined to prohibit LEC billing of resulting information service charges under such arrangements.

The TDDRA provides three specific exemptions to the definition of pay-per-call services: 1) directory services, 2) tariffed services and 3) services provided after entering into a POCA with a potential consumer. See 47 U.S.C. §228(i)(2). The exemption which has caused continued problems related to the Commission's attempts to implement effective consumer protections is the third exemption relating to services provided under a POCA. Because, pursuant to 47 C.F.R. §64.1501(a)(3), the FCC determined that pay-per-call services were restricted to information calls placed over 900 numbers, information calls made under a POCA are placed by consumers over either 800 numbers or OGAC numbers. Furthermore, in the experience of the Pennsylvania Commenters, many of these calls which originate on 800 or 900 numbers are presently billed through the LEC as OGAC terminating numbers.

In the Commission's August 13, 1993 Report and Order promulgating the present pay-per-call regulations, the Commission indicated the pay-per-call exemptions created "incentives for IPs to tailor their information services to fall within these exemptions." Report and Order, p. 6. The Commission further stated that as a result of these incentives, provisions were required to assure consumers the protections intended by TDDRA through specifically defining "presubscription or comparable arrangements" at 47 C.F.R. §64.1501(b)(1). The Commission also went on to impose restrictions on LEC billing of all information service calls and to prohibit termination of local or long distance services as a result of nonpayment of information service charges.

Undoubtedly, the incentives have attracted IPs to presubscription or comparable arrangement services in droves. However, as recognized by the Commission in its FNOPR, the protections intended by the present regulations have been abused, have become ineffective and require immediate improvement.

In this regard, as a starting point, the Pennsylvania Commenters strongly support the consumer protections incorporated into the Commission's proposed definition of "presubscription or comparable arrangement" as provided for in Appendix C of the FNOPR. Requiring further disclosure of information to consumers and requiring written POCAs with legally competent LEC customers of record (except for calls billed through traditional credit or charge cards) will go a long way towards assuring that minors and incompetent individuals do not fall victim to certain predatory information service offerings.

However, in our view, the Commission must go further in assuring adequate consumer protections. In the view of the Pennsylvania Commenters, the primary root of the information service problem is that the provision of information service calls has expanded beyond the use of easily identifiable 900 telephone numbers to telephone numbers (800 and OGAC numbers) which are primarily used to provide non-information services or tariffed traffic and are not easily identifiable when they are used to place and bill information service calls.

The result has been that consumers are misled and LEC billing systems are unable to identify and separate this traffic for billing purposes as required by present regulations.[2] In each case that a LEC billing system is unable to identify and separate an information service call charge, the subscriber will become subject to potential termination of local or toll service if the charges are not paid in a timely manner.[3] Because of the practical impossibility of LEC billing systems to identify information service calls entered through 800 or OGAC numbers, the Pennsylvania Commenters have reason to believe that thousands of Pennsylvania subscribers have had essential telephone service suspended or terminated for nonpayment of information service charges. LEC

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[2] On July 7, 1994, the PaPUC entered a Declaratory Order which was designed to clarify the applicability of the TDDRA, the Commission's present regulations and the PaPUC's regulations relating to LEC billing and collection procedures applicable to pay-per-call and other information services. A copy of the order is attached as Exhibit A hereto. The order also opened a dialogue with LECs and requested comments regarding the problems encountered by LECs in attempting to comply with federal and state law. The Commission received comments from over 30 Pennsylvania LECs. Virtually every LEC indicated that it was a practical impossibility for their billing systems to identify information service calls terminated for billing purposes over 800 or OGAC numbers. Accordingly, where the calls cannot be identified by billing systems they cannot be separated for billing purposes.

[3] Many Pennsylvania LECs attempt to alleviate this problem by removing from the bill and sending back information service charges once, pursuant to customer complaint, the LEC becomes aware that a given charge is being billed for information services. However, as the Commission recognized on page 12 of the FNOPR, satisfaction of complaints once made is not the final answer. Solving the problems and eliminating the violations which cause the complaints is.

participation in these improper terminations has been both innocent and inadvertent. We strongly submit that this is a situation which cannot be permitted to continue.[4]

In our view, the appropriate remedy is not to place additional responsibilities on LECs for policing the activities of IPs. Requiring LECs to modify billing contracts to require IPs to identify information service charges when transmitting call detail to the LEC depends on undependable IP compliance with the identification requirement through a completely unenforceable contract provision. Only in the face of consumer complaints would a LEC become aware that identification requirements were not being complied with. Likewise, LECs should not be required to police the existence of written POCAs between IPs and telephone subscribers since such a requirement would be impossible for the LEC to administer and would impose exorbitant costs on the LEC and its ratepayers.

It appears that the FNOPR attempts to make it difficult or impossible for LECs to provide billing and collection services to IPs for services provided under a POCA, however, the approach proposed by the Commission fails to realize that many or most of these information service calls are billed through clearinghouses serving IPs which also, pursuant to LEC billing contracts, bill huge amounts of non-information service calls. While LECs may be

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[4] PaPUC regulations at 52 Pa. Code §64.21 also prohibit suspension or termination of basic service for nonpayment of information service charges by requiring LECs to bill information service charges in a separate category designated as "nonbasic service."

in a position to modify or terminate billing contracts which relate only to information calls, it may be more difficult for LECs to modify or terminate broader billing arrangements. Furthermore, modifying these contracts to prohibit the transmission of information service call detail places undue reliance on the IP and the clearinghouse to comply.

Therefore, we suggest that the simpler and more direct approach to resolving the information services problem be adopted by the Commission. It appears to the Pennsylvania Commenters that the simpler and more direct approach to assure consumer protections consistent with the TDDRA[5] is to modify the definition of "presubscription or comparable arrangement" at 47 C.F.R. §64.1501(b)(1)(i) through (iv) to add a fifth element which requires the service provider to agree to bill directly for the information service charges or to bill in a manner which does not involve a LEC.[6]

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[5] The simplest and most direct approach to assure adequate consumer protection is to require all information service calls (with the exception of directory and tariffed services) to be placed and billed through 900 numbers or other area code blocks designated by the Commission as pay-per-call services. The Pennsylvania Commenters would urge Congress to revisit this issue and to restrict all information services, other than directory and tariffed services, to 900 numbers or other clearly designated pay-per-call numbers.

[6] The Pennsylvania Commenters strongly support the consumer protections incorporated into the Commission's proposed definition of "presubscription or comparable arrangement" as provided for in Appendix C of the FNOPR. However, we strongly believe that the additional element which serves to prohibit the transmission of POCA information services calls for LEC billing, whether by an IP or a clearinghouse, is critical to final resolution of the information services problem.

In our view, this simple modification is both legally consistent with the TDDRA and fully effective. As to the legal issues, while 47 U.S.C. §228(i)(2) appears to preserve the availability of information service calls made under a POCA, nothing in the statutory provision restricts the Commission from defining the nature and content of a POCA or requires that information service charges assessed under a POCA be permitted to be billed through LECs. As specifically related to 800 number information service calls made under a POCA, 47 U.S.C. §228(c)(6) places restrictions on common carriers which choose to bill 800 number information service calls. However, nothing in this statutory provision requires that LEC billing services be made available for these calls and or in any way prohibits the Commission from imposing restrictions which, in effect, eliminate LEC billing of these calls.

Furthermore, the effectiveness of consumer protections provided for by this simple modification is far-reaching. Since the effect of the proposed modification is that only pay-per-call services or information service calls placed over 900 numbers would be continued to be billed by LECs, LECs could easily identify information service calls transmitted to them for billing and could easily comply with billing separation requirements. In doing so, the LECs could then provide required information to consumers relative to payment for the charges assessed. Consumers would be able to easily identify the nature of charges and would be in position to dispute charges or determine payment priority of the charges, relative to a given consumer's financial position. Most importantly, LECs could effectively prevent any further suspensions or terminations of local exchange or long distance services related to nonpayment of information service charges.

As to POCA call charges directly billed by IPs or their billing subcontractors, the Pennsylvania Commenters believe that without the power of the LEC bill, consumers will be in a far better position to dispute charges and determine the appropriate personal payment priority for these charges. Furthermore, finally limited to the traditional billing and collection practices used by virtually every other business, IPs will be required to revise their business practices to establish meaningful pre-existing arrangements with customers before the IPs, as in the past, haphazardly offer high cost services on credit without concern for credit history.

Overall, as indicated previously, we believe that the Commission must move directly towards final resolution of information services problems and develop effective protections for consumers affected by this market. After careful consideration of a variety of alternatives within the ground rules provided by TDDRA, we respectfully urge the Commission to seriously consider and adopt the approach described in the foregoing.

2. As an alternative, the Commission should require IPs to agree to submit information service charges for billing purposes through <u>the use of a record indicator.</u>

As indicated previously, the Pennsylvania Commenters believe the aforedescribed proposal is the most effective approach to provide adequate consumer protections within the constraints of the TDDRA. However, if the Commission disagrees, an alternative is available, which although not as effective as a consumer protection, constitutes a step in the right direction.

On page 9 of the FNOPR, the Commission states as follows in conclusively determining to retain and strengthen Section 64.1510(b) requiring LECs to bill POCA information service charges in a separate part of the LEC bill:

> LECs that choose to bill for IPs offering presubscribed information services, can in their billing contracts, require the IP to identify all such calls. IPs should be able to separate their presubscribed traffic since PIN access is required for all calls in which information services are provided pursuant to a presubscription arrangement. Moreover, IPs should be able to identify all 800 number traffic as presubscribed since charges cannot be assessed for information transmitted during a call to an 800 number if a valid presubscription arrangement has not been established.

While everything the Commission says is true, we believe that requiring the identification of POCA information service charges through LEC billing contracts will not result in fully effective consumer protections. As indicated previously, while billing contracts with IPs may be easily terminated or modified, billing contracts with clearinghouses billing huge volumes of IP calls along with other noninformation service traffic are not easily terminated or modified without adversely impacting consumer convenience, i.e., the customer's ability to use a variety of long distance companies contracted to a given clearinghouse utilizing a single LEC bill.

Furthermore, the Commission's proposition places too much reliance on the good faith of IPs and clearinghouses to implement relatively costly procedures to identify POCA information service calls for LEC billing purposes in order to comply with unenforceable provisions in LEC billing contracts. As the Commission has recognized in its FNOPR, IPs have engaged in abusive practices under the current rules and accordingly, are not deserving of such good faith reliance. The Pennsylvania Commenters fear that while reliance on LEC billing contracts may decrease the number of improper billings and terminations, it will not provide a final resolution to the information services problem, particularly as related to those IPs which have shown great persistence in protecting their deceptive practices at all costs.

Instead, if the Commission continues to allow LEC billing of POCA calls, the Commission should further modify the definition of "presubscription or comparable arrangement" to include an element which requires IPs and their billing agents to agree to include an information service record indicator like a 900 code for all POCA call detail being transmitted to any LEC for billing purposes. This requirement will have the effect of imposing an enforceable legal requirement on IPs and their billing agents independent of respective LEC billing contracts.

Although not providing as effective consumer protections as our primary proposal, adoption of this modification would significantly strengthen the consumer position. By legally requiring the provision of necessary information to LECs which is essential to separate the billing of POCA calls, as required by Section 64.1510(b), LECs will be in a position to eliminate improper billings and unintended terminations of essential telephone service.

3. The Commission should clarify that information service calls placed or terminated for billing purposes over an ordinary geographic area code number can only be provided pursuant to a presubscription or comparable arrangement.

Because the provision and billing of pay-per-call and other related information services involve relatively complex technical and regulatory issues, the provisions of law governing the subject matter tend to be open to varying interpretations. The Pennsylvania Commenters remain particularly concerned regarding one such potential ambiguity pertaining to interpretation of both the TDDRA and the Commission's present regulations.

In conversations with FCC staff and in view of the Commission's discussion on page 9 of the FNOPR order, the Pennsylvania Commenters are satisfied that the Commission recognizes that <u>all</u> information service calls, except for directory and tariffed services, which are not placed on a pay-per-call basis over 900 numbers can only be provided under a POCA and that the

POCA requirement applies with equal force to information service calls placed or billed through OGAC numbers. We strongly agree that the Commission's view is the only reasonable interpretation of the relevant provisions of the TDDRA.

However, we are not convinced that IPs share, or even recognize what the Commission's view is on this important issue. Even given the language in the FNOPR, the Pennsylvania Commenters fear that some doubt remains.

Accordingly, it is extremely important for the Commission to clarify this issue once and for all by including a provision in the regulations that all information service calls placed or terminated for billing purposes through an ordinary geographic area code number must, without exception, be provided under a presubscription or comparable arrangement. The Pennsylvania Commenters fear that to allow even the tiniest ambiguity to remain regarding this issue will risk the creation of a gaping loophole in the regulations by IPs.

4. Issues relating to international information services continue to raise serious regulatory problems.

In footnote No. 36 on page 13 of the FNOPR, the Commission astutely and accurately identifies and summarizes a quickly growing regulatory problem with international information service calls. As the Commission recognizes, because international information calls are more times than not priced at tariff rates, they cannot be considered pay-per-call services and apparently fall outside federal regulations under the constraints of the TDDRA.

Nevertheless, it is equally clear that in instances involving this type of call, consumers would not make calls to international information service numbers but for the content of the information services.[7] Furthermore, all too often, minors, persons with physical and mental disabilities and low-income individuals fall victim and amass huge bills through use of these services.

The Pennsylvania Commenters, although extremely familiar with this issue, have no definite proposal for the Commission's consideration at this time. At the same time, we consider this a growing consumer problem which must be addressed in the near future, even if the required action involves Congressional initiatives. Indeed, it is clear that, while these types of tariffed calls may fall outside the letter of the law, they are not outside the spirit of the Congressional prohibitions contained in the TDDRA. In this light, we would urge the Commission, with the support of the Pennsylvania Commenters and others, to seek Congressional authority to protect consumers from these insidious and extremely expensive international information call practices.

The Pennsylvania Commenters are continuing to consider this issue and intend to closely review the initial comments of all parties submitted in response to the FNOPR. Upon further consideration, the Pennsylvania Commenters hope to develop a proposal to address this important issue in our reply comments at this docket.

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[7] Although legally accurate, it is difficult to describe with any degree of seriousness the vast array of international dial-a-porn services as "information services."

In summary, the Pennsylvania Commenters commend the Commission for recognizing the need to reopen consideration of its pay-per-call regulations in a timely manner and are appreciative of the opportunity to submit proposals for Commission consideration which would result in more effective consumer protections. The Pennsylvania Commenters strongly urge the Commission to seriously consider the proposals and recommendations advocated herein representing what we believe to be a final solution to the information services problem.

Respectfully submitted,

PENNSYLVANIA PUBLIC UTILITY COMMISSION

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PENNSYLVANIA
PUBLIC UTILITY COMMISSION
Harrisburg, PA 17105-3265

Public Meeting held June 30, 1994

Commissioners Present:

David W. Rolka, Chairman
Joseph Rhodes, Jr., Vice Chairman
John M. Quain
Lisa Crutchfield
John Hanger

Declaratory Order re LEC Billing of Pay-Per-Call and Similar Information Services

Docket No. M-00940569

O R D E R

BY THE COMMISSION:

Effective October 28, 1992, Congress enacted the Telephone Disclosure and Dispute Resolution Act (TDDRA), 15 U.S.C. §§5701, et seq., which required the Federal Communications Commission (FCC) to implement a national system of regulation to govern pay-per-call services. Pay-per-call services are information services provided over the telephone where the consumer is paying for access to the information instead of or in addition to the tariffed charge for transmission of the call. Pay-per-call services and other information services include services such as dial-a-porn, gambling lines, computer services, talk lines, etc. While these information services have traditionally been provided through 900 telephone numbers, recently information services provided on a collect basis, over 800 lines and most recently over regular business or even residential lines have become prevalent. The TDDRA required the

EXHIBIT A

FCC to promulgate regulations implementing consumer protections through information disclosure, compliance procedures, blocking, presubscription requirements and billing and collection restrictions.

On August 13, 1993, the FCC released final regulations (attached hereto as Appendix A) at 64 C.F.R. §§64.1501, et seq., intended to fulfill its TDDRA mandate. The regulations were published in the Federal Register on August 25, 1993 at 58 Fed. Reg. 44769 and with the exception of certain provisions discussed hereafter became effective on September 24, 1993.

The FCC regulations address compliance procedures, service termination, 800 and collect call restrictions, 900 blocking, information disclosure requirements and other issues related to the provision of pay-per-call and similar information services.[1]

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[1] The final FCC regulations define pay-per-call services as including only those services accessed through a 900 telephone number. Information services provided over other telephones lines are referenced in the regulations as "similar services" or "information services pursuant to a presubscription or comparable arrangement."

The FCC regulations are very complex and require extremely close scrutiny to ascertain the regulatory limitations imposed. However, after discussions with FCC staff, we are satisfied that the intent of the regulations is that information services (services related to any call for which there is a charge in addition to the tariffed rate for transmission of the call) are permitted to be provided only through the following two methods: (1) through the use of 900 numbers (pay-per-call services) or (2) through the use of any other number if the information services are provided through a "presubscription or comparable arrangement." See 64 C.F.R. §§64.1501(a)(b), 64.1504 and 64.1506 read together. A "presubscription or comparable arrangement" is an oral or written contractual arrangement, which must be reached with the actual telephone subscriber, which requires the disclosure of certain specific information and requires the use of an identification number to prevent unauthorized access. 64 C.F.R. §64.1501(b)(1). The LEC billing and collection restrictions which we address herein

Furthermore, and most relevant to our consideration here, the FCC imposed stringent restrictions at 64 C.F.R. §§64.1507 and 64.1510[2] on the billing and collection of interstate information services by common carriers, including local exchange carriers (LECs).

The provisions which govern LEC billing and collection of information services provide as follows:

> §64.1507 Prohibition on Disconnection or Interruption of Service for Failure to Remit Pay-Per-Call or Similar Service Charges.
>
> No common carrier shall disconnect or interrupt in any manner, or order the disconnection or interruption of, a telephone subscriber's local exchange or long distance telephone service as a result of that subscriber's failure to pay:
>
> (a) Charges for interstate pay-per-call service;
>
> (b) Charges for interstate information services provided pursuant to a presubscription or comparable arrangement; or
>
> (c) Charges which have been disputed by the subscriber for interstate tariffed collect information services.
>
> * * *

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apply to information services provided over any number. See 64 C.F.R. §§64.1507 and 64.1510(b) and (c).

[2] The effective date of Section 64.1510 was November 1, 1993. As applied to LEC billing, the effective date was later postponed by the FCC until January 1, 1994. Interstate Pay-Per-Call Services, CC Docket No. 93-22, FCC 93-489 (March 24, 1993), 58 Fed. Reg. 62044.

§64.1510 Billing and Collection of Pay-per-Call and Similar Service Charges.

(a) Any common carrier assigning a telephone number to a provider of interstate pay-per-call services and offering billing and collection services to such provider shall:

(1) Ensure that a subscriber is not billed for interstate pay-per-call services that such carrier knows or reasonably should know were provided in violation of the regulations set forth in this subpart or prescribed by the Federal Trade Commission pursuant to titles II or III of the TDDRA or any other federal law;

(2) In any billing to telephone subscribers that includes charges for any interstate pay-per-call service:

(i) Include a statement indicating that:

(A) Such charges are for non-communications services;

(b) Neither local nor long distances services can be disconnected for non-payment although an information provider may employ private entities to seek to collect such charges;

(C) 900 number blocking is available upon request; and

(D) Access to pay-per-call services may be involuntarily blocked for failure to pay legitimate charges;

(ii) Display any charges for pay-per-call services in a part of the bill that is identified as not being related to local and long distance telephone charges;

(iii) Specify, for each pay-per-call charge made, the type of service, the amount of the charge, and the date, time, and, for calls billed on a time-sensitive basis, the duration of the call; and

(iv) Identify the local or toll-free number established in accordance with §64.1509(b)(1).

(b) Any common carrier offering billing and collection services to an entity providing interstate information services pursuant to a presubscription or comparable arrangement, or for interstate tariffed collect information services, shall, to the extent possible, display the billing information in the manner described in paragraphs (a)(2)(i)-(ii) of this section.

Section 64.1507, effective September 24, 1993, prohibits common carriers, including LECs, from disconnecting or interrupting a customer's local exchange or toll service for nonpayment of pay-per-call or other information service charges. Reading Section 64.1507 in conjunction with Commission regulations at 52 Pa. Code §64.21 effectively requires Pennsylvania LECs to bill information services as nonbasic service since this is the only way that suspension or termination of toll or basic service can be prevented. In fact, pursuant to the definition of "nonbasic service" in 52 Pa. Code §64.2, nonbasic service includes all services other than telephone service and would include all information services as defined by the FCC. Pursuant to 52 Pa. Code §64.21(a), a customer's failure to pay for nonbasic service may not be a basis for terminating local exchange service. Accordingly, termination or suspension of local exchange service for non-payment of information services charges has always been prohibited under Commission regulations, even prior to promulgation of the FCC's regulations.

Section 64.1510(a) does not apply to LECs since IXCs, not LECs, assign pay-per-call service numbers. However, Section 64.1510(b) applies the billing restrictions in Section 64.1510(a)(2)(i) and (ii) to LEC billing "to the extent possible" effective January 1, 1994. Subsections (i) and (ii) require that information services charges be in a separate part of the bill identified as not being related to local or toll charges, that a statement be included in each bill which indicates that these charges are for non-communications services, that neither local or toll service can be disconnected for non-payment, that 900 number blocking is available upon request and that the information services accessibility can be blocked for non-payment.

Obviously, the focus of the FCC regulations is to require information service providers to rely on traditional billing and collection methods (e.g., credit checks, collections agencies, collection actions) rather than relying on the threat of suspension of essential communications services for assurance of payment. Upon review, it appears to the Commission that the FCC regulations can be effective consumer protections for Pennsylvanians if implemented properly by Pennsylvania LECs.

In this regard, it has come to our attention that many, if not most, Pennsylvania LECs have not complied with the FCC regulations even though they have been in effect for some time. Some smaller LECs may be completely unaware of the promulgation of the federal regulations. Others may not understand the FCC's intended restrictions as applied to their billing and collection activities. Others may have billing and collection contracts which create barriers to compliance. Finally, it appears that information service calls placed over 800 or regular business or residential lines are difficult for LEC billing systems to identify.

Regardless of problems with compliance, the FCC regulations impose important consumer protections for which compliance must be achieved. In particular, the mandatory requirement under Section 64.1507 that local and toll service not be subject to termination for non-payment of any information services call is critical to protection of essential services for Pennsylvania telephone customers. Additionally, as indicated previously, the corresponding state requirement that information services be billed as nonbasic service regardless of what type of telephone number is used to provide the service, has always prohibited disconnection of local service for non-payment of those services.

Furthermore, we expect compliance with the separate billing and customer notice requirements of the FCC regulations under Section 64.1510(a)(2)(i) and (ii) as an element of adequate service under state law. 66 Pa. C.S. §1501. It appears that only if compliance would cause clear breach of existing billing and collection contracts would compliance be impossible and excused under Section 64.1510(b), and then only for the remaining term of the contract.